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International Court of Justice

(P21)

OFFICIAL TRANSCRIPT OF EXAMINATION OF AFFIDAVITS ON BEHALF OF ACCUSED ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO ORDER OF THE TRIBUNAL, DATED 5 JULY 1946.

13 July 1946

COMMISSIONER:

Lt. Col. A.M.S. Neave

(The Commission convened at 1010 hours)

THE SS

COL. NEAVE: I apologize for being late, but we have just been making up a program for next week. As far as witnesses go, the Political Leaders and the SA will be heard for the first three days next week, and a list of those will be published during the course of the day. As far as affidavits go, we will take the General Staff on Monday, and the Political Leaders on Tuesday. Dr. Pelckmann, can you tell me how many affidavits you think you can get through today, and how many more will have to be heard before the end of your affidavits.?

DR. PELCKMANN: I have 50 today. I don't know whether we will get them through, and I have 40 more after that.

COL. NEAVE: You have a total of 90 affidavits?

DR. PELCKMANN: Yes.

COL. NEAVE: All right, shall we go on. #4, isn't it?

DR. PELCKMANN: Next will be the affidavit of ENZNER of the Allgemeine-SS who states that the SS was alarmed and alerted on 30 June 1934, but was not put into action against the SA. That is for Frankurt/Main.

COL. NEAVE: Are there any other affidavits from other parts of Germany which says that the SS was alarmed for this on the 30 of June 1934?

DR. PELCKMANN: During the next meeting I will produce some more.

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COL. NEAVE: Well, Dr. Pelckmann, the only fact that appears to be necessary to prove from your point of view, is that the SS all over Germany was alarmed, but did not take any action. Is that what you really want to say?

DR. PELCKMANN: Yes.

COL. NEAVE: Now isn't that rather better to be done by one affidavit by somebody who was in charge of the SS at the time? Do we really want a series of affidavits from local areas - if one person knows if those were orders given to the whole of Germany.

DR. PELCKMANN: I'm sorry, but I don't have a leading person from that date, and besides I can bring more concrete evidence by massive evidence.

COL. NEAVE: That's a matter of opinion, but I think in view of what you have said we will accept this affidavit. That is SS affidavit #4, - that is allowed by the Commission unless the prosecution have any objection.

MR. MONNERAY: No objection

COL. NEAVE: You understand what Dr. Pelckman says that he can't get one leader, saying that these were orders given to the whole of Germany. He is, therefore, trying to get a number of local men to give evidence that the orders were given.

MR. MONNERAY: The prosecution has already stated what its position is concerning those affidavits, and does not consider those affidavits as extremely relevant for the criminal character as a whole.

DR. PELCKMANN: I believe that the Court already on the 13 of March has approved such documents to be presented unless they are very individual cases.

COL. NEAVE: Yes. This affidavit is allowed. The point is that you may build up a picture of your organization through local representatives' evidence, but you may not allow them to give their personal reminiscence or their personal views on the main organization, excepting so far as their personal views regarding the organization relate to the position and responsibility that they held.

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DR. PELCKMANN: Affidavit of Schallermeier. Next affidavit isthe affidavit of Schallermeier. "Schallermeier was in 1933-39, personal referent of the SS Gruppenfuehrer Wolf and the Staff of the Reichsfuehrers SS. In the nights of 9 and 10 November 1938, at 1 O'clock in the morning, Himmler gave Heyderich an order that the Gestapo offices were to prevent/~~xxxxxxx~~ plunderings and were to execute the guarding of the Jews and Jewish property. The Gau Propaganda Offices were supposed to be the deriving basic in this Jewish action. This order was given through to the Oberabschnitte of the Allgemeine SS between 0130 and 0230. After this order had been given out, the Oberabschnittefuehrer of the SS directed the Oberabschnitte that they were supposed to assist the Gestapo, if necessary, in guarding the Jews and Jewish property. About 0300 in the morning, Himmler dictated a memorandum to Schallermeier which he then sealed and which later was put into the safe of Himmler." I want to point out especially the attentions which were given in this affidavit which are extremely important especially in connection with the statements made by the witness von Eberstein. I also wish to quote literally the memorandum whihh was written by Himmler and which was thereupon sealed and put in the safe of Himmler.

COL. NEAVE: Which is the memorandum of Himmler?

DR. PELCKMANN: From the end of ~~xxx~~ page 2 to the middle of page 3.

COL. NEAVE: I think that in principle instead of quoting sections of the affidavit or having sections translated by the translating division, it is much better ~~to deal~~, as/~~if~~ I have done in the case of other organizations, to translate the complete affidavit in important cases, and to confine ourselves in these proceedings to summaries. In this particular system that's been laid down in the procedure of the hearing of affidavits, the translation of extracts from the affidavits in a number of cases would be very complicated, and I think

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therefore we will adhere to the original arrangements which is this - that we will read the summary, and it would be up to the discretion of the Commission as to whether or not the whole affidavit should be translated and be presented to the Tribunal. Now, I think I'm prepared to consider the translation of this affidavit and to make a final decision at the end of this hearing when I've heard whether there are any more of this description.

MR. MONNERAY: I'm in favor of the complete translation of the document, and if the Commission decides not to translate the whole document, I would just emphasize as far as the summing up is concerned - that is the instructions of Himmler and Heyderich to protect the Jews which were put in a safe; that means according to the terms of the text to prevent any harm and on the other side to protect not the synagogues which will be burned, but to protect the neighboring houses. This phrase seems to be very interesting since it shows what were the meanings of the protection by Himmler and Heyderich.

COL. NEAVE: In view of the statement of theprosecution, Commission will agree to the translation of the whole affidavit, and its presentation to the Tribunal as such. That is then SS affidavit #5

DR. PELCKMANN: Affidavit of Enzer.

COL. NEAVE: Is this the same man as #4?

DR. PELCKMANN: Yes, it is the same one. "In Ulm the SS did not participate in any demonstrations against the Jews on the 9th of November 1938. The SS had the order to go home after giving their oath."

COL. NEAVE: Yes, any objections?

MR. MONNERAY: The main problem of this affidavit does not concern, seems to me, the demonstrations of 1938, and no other evidence, and I don't think it would be interesting to have translations of this document.

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COL. NEAVE: I think he merely makes the statement of this in the summary which is sufficiently dealt with. WE'll allow that as SS affidavit #6.

DR. PELCKMANN: Next three affidavits concern themselves with the same thing - that is the demonstrations of 9 November 1938, and the non-participation of the SS.

COL. NEAVE: What are the next three?

DR. PELCKMANN: First of all the affidavit of VON ROEDERN who was in the Berlin SS, did not participate in the demonstrations of 8 and 9 November 1938, but was use d in the protection of the Jewish stores.

COL. NEAVE: Do we really need Von Roedern's affidavit? We have had a very thorough description.

DR. PELCKMANN: We have no affidavit concerning Berlin, for instance, and the teletype message is something which we are accused of which concerns itself with all of Germany.

COL. NEAVE: Yes, well then the other two show exactly the same thing?

DR. PELCKMANN: Yes, one concerning Hamburg, and the other [redacted] concerning Munich.

COL. NEAVE: Well, Mr. Monnergy, I have no objection to these others being read as well.

MR. MONNERAY: Only a summing up.

COL. NEAVE: I think that the [redacted] procedure as laid down in the Tribunal's order of 5 July, would definitely permit the defense counsel, as far as possible, to build up a story of those events through local stories, providing they were relevant and providing they were not purely personal views. We will give Von Roedern then SS#7.

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DR. PELCKMANN: Next one is KAUFMANN.

COL. NEAVE: We will give that then SS-affidavit #8. Will you read that?

DR. PELCKMANN: "Kaufmann was Reichsstatthalter and Gauleiter in Hamburg. The Hamburg SS did not participate in demonstrations against the Jews on the 9 of November 1938.

COL. NEAVE: It is a bit vague, isn't it?

COL. NEAVE: All right then. VON BASSEWITZ-BEHR #9

DR. PELCKMANN: "Behr was a guest of Himmler on the 8th of November 1938, at the time of the swearing in of the SS in Munich. Himmler told the SS Obergruppenfuehrers and Gruppenfuehrers at midnight that Goebbels had ordered an Anti-Jewish action. Reports of these demonstrations started pouring in. Himmler gave the order that the demonstrations were to be stopped by the Allgemeine SS."

MR. MONNERAY: Perhaps we could have this affidavit translated since it shows what the credibility of the affidavit is. At this time it was positive that the SS tried to prevent the whole Anti-Jewish Action.

DR. PELCKMANN: I have no objection to it, since I'm interested in the affidavit also due to another reason.

COL. NEAVE: Well, we can only have a very limited number of these affidavits fully translated, and it seems to me that it is not justified in this case. I would, however, allow the representative of the prosecution to select the passage which he would like read into the transcript.

MR. MONNERAY: May I suggest in this case the translation of the last phrase.

COL. NEAVE: Do you mean the passage that begins with "Die SS land somit.." ? Do you mean that passage?

MR. MONNERAY: No.

COL. NEAVE: Do you have the whole affidavit there?

THE INTERPRETER: No, I do not?

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COL. NEAVE: If you want one - here, so you can borrow mine. It would be paragraph #2, section #1 - the last sentence of section 1.

THE INTERPRETER: "Thereupon Himmler gave an order to his Oberabschnittefuehrer, saying that the demonstrations were supposed to be stopped by the Allgemeine SS, since it was feared that the measures started by Goebbels would lead to a Jewish program."

COL. NEAVE: That was number 9.

DR. PELCKMANN: This next affidavit by FRANZ FISCHER concerns itself with the 03th of June 1934, and 9th of November 1938, and for the area of Nurnberg of the 30th of June 1934, and for the 9th of November 1938, for the area of Oberabschnitt Main and Mitte, which includes Hannover, Magdeburg, Dessau, Goettingen, etc. My summary is as follows.

COL. NEAVE: I'd like to hear your opinion - I wonder if prosecution has any comments of paragraph #3 of the summary.

MR. MONNERAY: I think as to paragraph #3 there are no complete facts at all given by the affidavit, but only sort of general impression. There are only two indications of two men who have been on the one side - higher SS and police leaders, and on the other side - president of the police. I don't think this paragraph has anything to do with general problem with connection between the SS and police.

COL. NEAVE: Is his point to prove that the Oberabschnittfuehrer of theAllgemeine SS did not hold the same office as SS and higher SS police leaders?

DR. PELCKMANN: Yes.

COL. NEAVE: That is a mere statement of certain individual who held that position. It doesn't necessarily take us very far in this subject, as the prosecution says.

DR. PELCKMANN: May I make a short statement about this. Prosecution claims

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close cooperation between the SS and the police. One of the main reasons for that - the higher SS and police leaders - affidavit shows this in two cases, that is in Main and Nurnberg the higher SS and police leaders was the same as the Oberabschnittfuehrer. If I prove the same thing for other Oberabschnittfuehrer for other higher SS and police leaders.

COL. NEAVE: I think I can stop you here. I'm sufficiently aware of the importance of the point in regard to the position of the higher SS and police leaders. What I'm questioning is whether it's/~~xxxxxxxx being~~ worthwhile bringing before the Tribunal - the mere statement that in two places the position of the higher SS and police leaders was not held by the same person as the Oberabschnittfuehrer.

DR. PELCKMANN: I believe that it is important if I can show it for further areas, so I don't think that can be charged yet.

COL. NEAVE: Mr. Monneray, I~~'m not saying that~~ we must consider these affidavits ~~as~~ to ~~the~~ a certain extent ~~of certain~~ as supporting the evidence of ~~all~~ other witnesses, and on those grounds, although I think that this is not ~~xxxxx~~ particularly relevant. I think we should ~~xxxx~~ allow the affidavit.

MR. MONNERAY: May I just for the record say that according to this affidavit the president of the police at Nurnberg was Dr. Martin, and was at the same time higher SS police chief. Correct?

COL. NEAVE: Yes, well that is actually a different point, isn't it? I think that should go into the record though. Will you read the summary, Dr. Pelckmann?

DR. PELCKMANN: "One: The Allgemeine SS in Nurnberg was not put into action on the 30th of June 1934. It did not have any orders. Two. The SS in Oberabschnitt Main and Mitte did not participate on the 9th of November 1938, in any of the demonstrations against Jews. Three: It is not correct that the SS and police formed the single unit, and especially that the higher SS and police leaders were put together - for instance, the leader of the Ober-

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abschnitts of the Allgemeinen SS/in Main was not ~~xxxxx~~ at the same time higher SS and police leader. Same was the case in Nurnberg."

MR. MONNERAY: I think the last passage of this summary is not correct, regarding Nurnberg.

COL. MEAVE: Well, the point you made was that the Chief of Police in Nurnberg was not the same. This is referring to the Chief of Oberabschnitts.

So that is SS affidavit #10.

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DR. PELCKMANN: Affidavit by FABRIZIUS. According to this affidavit the German minorities and the "Volksdeutsche Mittelstelle" were no fifth column and did not receive any instructions from the SS and had orders not to participate in the Rumanian National Socialistic groups. Bruckner was minority leader in Rumania from 1936 to 1938."

MR. MONNERAY: I wish to emphasize that the affidavit stresses the loyalty of the German minorities, however, at the same time they were in touch with the German Government in Berlin.

COLONEL NEAVE: What is the point in saying that? What does that have to do with the SS?

MR. MONNERAY: I merely wanted to cite the fact that though the affidavit stresses the loyalty of the German minorities, they were still in touch with the German Government in Berlin.

COLONEL NEAVE: I don't see your point in putting that on the record at all even if it is in the affidavit ~~went through~~. The point in this affidavit is to show that the German minorities received no instructions from the SS and does not pertain to the question of the German minorities' loyalty to their own Government. The reference is to the ~~armed~~ Black guard in Rumania. Is it not mentioned in the affidavit?

DR. PELCKMANN: Yes in number five.

COLONEL NEAVE: That is Affidavit SS No. 11.

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DR. PELCKMANN: Affidavit WEBER. By occupation Weber is a priest and a Rumanian citizen of German ancestory. Early in 1941, he was called into the Waffen SS, without having beloned to the Algemeine SS previously. That is Point one of my summary.

COLONEL NEAVE: Is the first point of the summary covering only Weber's being drafted into the SS?

DR. PELCKMANN: No. 1 covers Weber's being drafted into the Waffen SS without his volunteering and without belonging to the Algemine SS. This occured in the year 1941 and as Weber states this concerns at least 350 other fellow citizens of all agencies and occupations.

COLONEL NEAVE: Yes, I grant you that.

DR. PELCKMANN: In the concentration camp Mauthausen Gusen where Weber was sent as a guard, the prisoners were treated well by the guard company. Entrance to the camp as well as to the work places of the camp was only permitted to the command post personnel and only to those in some individual cases. Even prisoners of Mauthausen Gusen who spoke after the capitulation cannot verify the existance of a gas chamber or cannot give the position of the gas chamber. Weber was often in contact with prisoners, he often exchanged books with them and none of the spoke of killings, tortures, etc.

COLONEL NEAVE: How far does the fact that there was no gas chamber have relevancy?

DR. PELCKMANN: There was no knowledge of any such gas chamber by the guard company and therefore no knowledge of any killings in the camp.

COLONEL NEAVE: The knowledge of such events is the point of this affidavit?

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DR. PELCKMANN: Yes, that is the main point. The other statements of Weber are to prove that the prisoners were not treated badly. Since Weber was a priest and gives a rather detailed report of the knowledge and actions of the guard companies, may I ask that it be considered that this affidavit be translated in its entirety as the only document of its sort to be so translated. I have several other documents of the same sort and I will not request them to be translated.

COLONEL NEAVE: Do you believe it worthwhile to translate the Document when it only refers to the particular knowledge of one person in the camp? Your summary is perfectly correct, but I suggest that we hand the Document back to you and that you make a fuller summary of it.

DR. PELCKMANN: Yes.

COLONEL NEAVE: We will withhold that affidavit for the moment.

MR. MONNERAY: According to the affidavit the doubt was inside the concentration camp that Weber was not a member of the guard.

COLONEL NEAVE: We have returned the affidavit to Dr. Pelckmann for a fuller summary.

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DR. PELCKMANN: Affidavit KOENIG. Koenig was drafted into the Waffen SS, according to the labor draft law, on January 4, 1940. In the Concentration Camp Sachsenhausen the prisoners were treated well. Koenig made this observation both as a member of the guard company as well as a member of the commando staff. When the prisoners were released they had to sign a statement that there was no mistreatment of prisoners. They were not allowed to tell anything of their knowledge of what occured in the

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concentration camp. The food in the concentration camp Sachenhausen was sufficient and very tasty and at times better than that given to the SS members. Mistreatment of prisoners was strictly forbidden and was punished severely. If the short statement in this summary concerning the fact that the food was tasty and was better, at least in the concentration camp Sachenhausen, seems untrue, I want to point out that in the full description in the affidavit it is described more closely and this should show that almost until the end of the war, at least in the concentration camp Sachenhausen, the food was quite well and sufficient.

COLONEL NEAVE: We are not here to judge whether or not the food was good in the Concentration Camp at Sachenhausen, but to decide if the question is relevant to the organization as a whole. How many of these affidavits will show what the condition of individual camps was?

DR. PELCKMANN: I only have about two more in today's summary and in the next group, which I intend to bring up about Wednesday or Thursday, I will have some more. I believe that it is relevant concerning the question of the organization of the SS in the following connection. If the guard companies of the Concentration Camp Sachenhausen did not believe that the prisoners were hungry and starved to death, then it is important concerning the knowledge of the SS as an organization. I want to point out the following. If that man heard a report that people were starting and dying at Mauthausen Gusen, he would consider it to be enemy propaganda reports since the people were being treated rather well in his concentration camp.

MR. MONNERAY: I don't see how we can discuss this sort of affidavit. It is not a question of relevancy you are discussing here.

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COLONEL NEAVE: The only point with which we are concerned is whether a statement of this kind regarding an individual camp is relevant regarding the case of the entire organization and whether the charges that are made against the SS in respect to concentration camps are being refuted in a relative manner.

MR. MONNERAY: I think this man had a very small ~~precision~~ perspective of the condition in his camp and according to the text of his affidavit, he could not know all that was going on in the camp. It is really only sense that he could not give any evidence of the criminal activities of the organization as a whole.

COLONEL NEAVE: The question the Commission is to decide is how far the defense counsel should be allowed to build up a picture regarding the participation of the SS in concentration camps as a whole through individual stories like this. Obviously the number of such affidavits cannot be unlimited and we must decide upon some principle by which to judge the relevancy and the ~~visability~~ admissibility of these affidavits. I think we will make a rule to apply to this.

DR. PELCKMANN: The duties and goals of these affidavits are not to deny that killings and tortures did occur on a largescale in the concentration camps. What we want to prove is that the SS, meaning the guard companies, which were even closcer to the actual scene, did not know anything of these matters. The only way that can be proven is through the reports of small people like this. If I would bring a camp commander here, he would possibly not be believed and that would be quite right. This man

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is supposed to answer questions about actual occurances and not concerning organizational questions and that is why it is unimportant what rank and what position he had in the organization, he is an exceptionally good witness since he is not accused of any big crimes and therefore can give a better description of the actual facts.

COLONEL NEAVE: The point you make is that these affidavits are being submitted to show that all the members of the organization did not know of the crimes, which the SS is being charged with, ~~and~~ but that does not really help us in this problem at all. The point is how far the defense should be allowed to introduce affidavits by unimportant people to prove ~~any~~ such points ~~in the defense~~. We all quite agree that the hearings on behalf of the organizations must be as representative as possible. At the same time there will have to be a limit as to the number of affidavits on this particular question and on similar questions. ~~In the future,~~ It ~~will be~~ is at the discretion of the commissioner whether the particular points of the affidavits ~~are intended to be~~ is relevant or if it has already been covered. In the meantime, I would like to know how many affidavits you have regarding the conditions in concentration camps.

DR. PELCKMANN: Today I have six.

COLONEL NEAVE: They are all covering the same sort of thing, are they not?

DR. PELCKMANN: Yes, but at different camps.

MR. MONNERAY: There is one point that has not been contested and that is that crimes have been committed. It seems the only relevant point

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is for the defense to show that the SS employees in the concentration camps could not possibly know of the crimes committed at the camps. I do not think that the defense for the SS wants to show that the concentration camps were not camps where atrocities and killings were carried out systematically, so this affidavit has to have as its aims an ignorance of the crimes and not to show that no crimes at all were carried out at the concentration camps. It seems to be a point, which is out of the aim of the organization.

COLONEL NEAVE: I believe, Dr. Pelckmann, we will have to talk this over again at a later date. In the meantime we will consider these six affidavits with regard to concentration camps and we will make no final decision on them at the moment, although we will read the summary into the record. Whether a small group of guards knew about these events or not does not go very far to prove knowledge or ignorance of the whole organization and as a consequence the ~~permissability~~ admissibility of the affidavit before the commission will have to be judged in that light. Let us consider these six affidavits together.

DR. PELCKMANN: Before I give you the summaries, may I say something?

COLONEL NEAVE: If it is not very long.

DR. PELCKMANN: I don't want to prove by the affidavits that a relatively small group of guards did not know anything of the occurances in the concentration camps. I want to show that if the guards that were so close to the actual occurances did not know anything of the occurances ~~that~~ within the camp, except for a few exceptions, then the SS or the

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organization as a whole, the men on the front and in the homeland could not know anything further.

MR. MONNERAY: Are you going to present affidavits from guards at Auschwitz and Buchenwald?

DR. PELCKMANN: Yes.

COLONEL NEAVE: Do you mean to say that they did not know?

DR. PELCKMANN: Yes. I want to state that you do not consider these things in the light of an individual case, but rather as a whole in connection with the proof I have given concerning the secrecy, the threat of punishment, etc., and all matters which were carried out in order to insure the secretness of the entire matter. I want to prove this in connection also with the oral statement of the judges which we had here.

COLONEL NEAVE: We will consider these affidavits altogether and the Commission will give you their decision regarding the question of concentration camp evidence.

We will recess for ten minutes.

(THE COMMISSION RECESSED AT 1200 HOURS.)

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COMMISSIONER NEAVE: The Commission consider that ~~xx~~ the question of these concentration camp affidavits is a problem that requires careful reflection and until they have had an opportunity to examine these affidavits closely it is not proposed to make any further pronouncement with regard to the question of concentration camps. I think therefore, with regard to these six affidavits here, the best policy would be as follows: For me to take them away and examine them and not read the summaries into the record now. We will not read the summaries into the record until they have been further considered. By the time that you come to present your other affidavits with respect to concentration camps we shall, of course, have made a ruling on this question. Have the Prosecution got copies of these documents?

M. MONNERAY: Yes I have received here six affidavits.

DR. PELCKMANN: Perhaps the names of the affidavits could be read into the transcript at this time?

COMMISSIONER NEAVE: Yes.

DR. PELCKMANN: Koenig, Friedrich Mueller, Klose, Flierl, Tunger, Roman and Meyer Hetling. Do you consider the question of the concentration camp complex to embody only the statements of members of the concentration camp or also statements concerning the secretness of the concentration camp actions?

COMMISSIONER NEAVE: Well, in regard to the secrecy of concentration camp activities, what sort of people would be giving the ~~xxx~~ affidavits on them?

DR. PELCKMANN: Certain SS members that made investigations, who received certain information, or could not enter this cordon of secrecy.

COMMISSIONER NEAVE: Affidavits from members of the concentration camp SS guard units only ~~will~~ are being considered at the moment and the following procedure is suggested: These affidavits will be examined by myself and by Mr. Monneray

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on behalf of the prosecution and we will have an off-the-record meeting next week, on Monday or Tuesday, and having arrived at a decision the Commission will then proceed to hear the affidavits during the course of the next week. Dr Pelckmann will come to this meeting to which I refer, I think this is a matter of some difficulty and I would like, in order to be fair to the defense, to consider it very carefully. With regard to affidavits by members of the SS who held positions in offices where they received orders, etc., I think I am personally quite clear as to how to judge the relevancy of that type of evidence. On the question of evidence by concentration camp guards I want at least another member's opinion as it requires the most careful consideration. Well, shall we go on to the next affidavit?

BY DR. PELCKMANN:

The affidavit of Kuehn is next. Kuehn was the man charged in the Reichs Ministry of Justice with the prosecution of rumor spreaders. In this position he asked officials of the Gestapo if rumors concerning the extermination of Jews in the East were true. The Gestapo answered, and it was either 1942 or 1943, that these rumors were unfounded. Because of its wording, which is rather important in this case, I would like to ask for a translation of the entire document which does not take quite a full page.

MR. MONNERAY: I do not see any direct connection with the SS organization.

COMMISSIONER NEAVE: How does the fact that the Gestapo answered his question that it was in 1942 or 1943 that these rumors had grown up, have anything to do with the SS?

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DR. PELCKMANN: That concerns the system of secrecy which was not limited only to the SS. It also concerns itself with the claim that the German people knew as well or even better concerning all these actions, all these tortures and so on, than the foreign countries. I want to prove that that is incorrect and it was the duty of these organizations, just like the Gestapo, to distribute false facts to the population and that in this way they led the population to believe wrong things and I want to make the statement or claim that in this way they also fooled the members of the SS as far as that was concerned.

COMMISSIONER NEAVE: Wait a minute, Dr. Pelckmann. This does not prove anything about the SS except by implication. It does not state anything concerning the SS. It merely implies that if the Gestapo kept these things secret, according to what you say, the SS would not have known. In this case the witness was neither a member of the SS nor apparently connected with it at all, so it is rather far fetched to say that a conversation between him and a Gestapo officials shows that the SS could not have known. I think the connection between this affidavit and what you wish to prove is too remote and I don't think it should be allowed.

DR. PELCKMANN: This evidence is about the same kind as that of von Thadden.

COMMISSIONER NEAVE: Yes and of course there was a lot in the evidence of von Thadden which was not really relevant but at least von Thadden's evidence ~~did go~~ was meant to show that the actions that were alleged to have been carried out in the extermination of Jews were not known to a wide field of people, including the SS, with whom ~~XXXXX~~ he was in contact whereas that is not true in this case.

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DR. PELCKMANN: I am of ~~kx~~ the opinion that the only way I can fight the statement of the Prosecution that everybody knew about this, the only way of proving or fighting the claim of the Prosecution that the whole of Germany knew about it....

COMMISSIONER NEAVE: Dr. Pelckmann, let me stop you here. You are not supposed to be proving that the whole of Germany did not know. You are supposed to be proving that the SS did not know. If you can in fact prove that the whole of Germany did not know, presumably then that would include the SS, but that is not apparently the purpose of this affidavit. As a matter of fact that is the whole difficulty with regard to von Thadden which you just mentioned, in that it is evidence by implication rather than by any direct facts which go to show that the members were ignorant of the extermination of Jews. What von Thadden did succeed in showing, in my opinion, was that Eichmann kept his activities secret from the Foreign Office and, in consequence, to a great extent from the SS who were in liaison with von Thadden. Now that is a very different case from this. This is purely the content of a conversation and the implications are much too wide.

DR. PELCKMANN: I want to say before I close that this man was a high official in the Ministry of Justice and if the prosecution claims that there ~~ick~~ was general knowledge (communos opinio) of these matters in Germany, then I have to disprove that by the same sort of implication through this high official.

COMMISSION NERAVE: We are not going into a long discussion about that. I take the view that this affidavit is too remote from the point which you yourself say you wish to prove and I will withhold it for further consideration.

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COM. A.
Take 3 - 5
Lesser
13 July
Affidavits - SS

BY DR. PELCKMANN:

Affidavit FUEHRER. Fuehrer was the adjutant of Himmler. Even in this position he did not have any insight on the actities of Himmler in connection with his criminal action. Himmler kept all his activities very secret and discussed the most important only with the person that received the order without calling in his adjutant or other persons. On the personal staff of Himmler there were only lower aides. They practically were only writers and helpers of Himmler. He wanted to take care of everything himself. 2). Himmler called many men who played an important role in the life of the State, Industry and Culture, and made them so-called honorary leaders but these men did not participate in any SS service or did not have any training.

COMMISSIONER NEAVE: Point No. 2 is certainly admissible. Have you any comment on Point No. 1, Mr. Monneray?

MR. MONNERAY: I think my objection is quite the same as to the previous affidavit. This affidavit shows that the personal adjutant of Himmler did not know very much about the activity of Himmler but does it show that the SS had no connection with certain orders given by Himmler? I quite agree with the Commissioner on Point No. 2, referring to the appointment as honorary SS members, but I think Point No. 1 is irrelevant.

COMMISSIONER NEAVE: I think, Dr. Pelckmann, that Point No. 1 would be admissible in so far as it showed that Himmler treated all members of the SS in that fashion.

DR. PELCKMANN: I say the following: The defense does not deny that crimes were carried out by members of the SS but the great mass of the SS could only have found out about these criminal actions either from the men that carried out these crimes or from the people that ordered them.

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COMMISSIONER NEAVE: Let me stop you there. I can quite understand what you are going to say, but that is not the point. The point here is that the Reichsfuehrer-SS as the head of that organization appears to have treated his adjutant in such a way that the adjutant did not find out what was going on. That in itself is entirely irrelevant. The part of this summary which is relevant is that it appears that Himmler undertook all the work himself and did not inform other people. That is what appears to be the case. I think that this should be resummarized, if possible, if you say the affidavit contains the information, to show that Himmler treated the SS organization as a whole in this manner, i.e., that he was secretive towards them. We cannot ask the Tribunal to take notice of the fact that he kept things secret from his adjutant. But if you can show that Himmler was a man of a secretive nature who, in general, kept all these matters secret from his officers, then I think that this affidavit will be admissible. Let us just look at the affidavit itself.....

MR. MONNERAY: I do not see that Himmler had any special secrecy beyond the SS officers.

COMMISSIONER NEAVE: No, there is nothing in this affidavit to show that.

DR. PELCKMANN: I have to say I do not understand what the Commissioner wants to express.

COMMISSIONER NEAVE: I will repeat what I have said. This affidavit says that Himmler kept things secret from his adjutant. That is entirely irrelevant. If it said that he kept things secret from his officers in the SS that would be relevant, but it does not say that.

DR. PELCKMANN: This adjutant was only a small part of the SS Office with whom Himmler communicated.

COMMISSIONER NEAVE: That is what I mean.

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DR. PELCKMANN: But generally the adjutant has knowledge of the plans and the actions of his chief and has to know everything in order to function correctly. I want to prove by this that Himmler did not adhere to this principle and that his adjutant did not know anything.

COMMISSIONER NEAVE: Dr. Pelckmann, I cannot argue this point any further. The point is entirely irrelevant. If the adjutant had been in a position to say, and it is surprising that he is not, that Himmler treated people who came to see him, or higher officers of the SS, with great secrecy, that would be extremely interesting and very important evidence.

DR. PELCKMANN: Just what you state, Commissioner, is stated in the affidavit. It states in the affidavit that when a visitor came the adjutant was not called upon but that the discussion was under Four Eyes and that therefore he could not have found out anything.

COMMISSIONER NEAVE: But Dr. Pelckmann, the fact that the adjutant was not there does not prove that Himmler kept things secret from other members of the SS and what is more, all this affidavit says is that he received his visitors alone. That does not prove anything at all. I am not hearing any more on this subject unless the Prosecution has anything to say.

MR. MONNERAY: I quite agree with the Commissioner.

COMMISSIONER NEAVE: I cannot see that there is much point in re-summarizing this affidavit. There doesn't seem to be anything contained in it that is relevant but the second point is admitted and will be recorded in the record. If, however, you think that by reading through the affidavit again that the point I have made can be proved, you can have the affidavit back to be re-summarized. What would you like to do?

DR. PELCKMANN: I would like to try again.

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COLONEL NEAVE: I cannot find anything in it to prove your point. (Court Reporter: Show in the record that this affidavit of Fuehrer was not admitted by the Commission but will be re-summarized and re-submitted by Dr. Pelckmann.) I am giving you the chance to do that because the Commission has admitted one part of the affidavit already.

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BY DR. PELCKMANN:

Affidavit ROTHEMUND. Rothemund was in July 1942 adjutant with the Chief of the SS Personnel Main Office. He asked the Reichs Security Main Office, Amt IV and Economic and Administration Main Office, Amts Group D, if rumors concerning the murder of Jews were true. He received the answer that the rumors were purely enemy propaganda. That was in 1943.

COMMISSIONER NEAVE: Well, I think we had better treat that in the same manner as the affidavit of Kuehn and withhold that for further consideration by the commissioners.

DR. PELCKMANN: The difference in this case is that Rothemund was an SS official.

COMMISSIONER NEAVE: But it is the same question, isn't it? I mean, whether it is relevant for an individual to go and ask the Reichssicherheitshauptamt whether these rumors were true or not and to receive an answer that it was enemy propaganda. That is the question. We had this question before in the evidence of witnesses before the Commission and its relevancy is still very doubtful except in so far as certain witnesses can show that large areas of the population could not have known.

DR. PELCKMANN: This statement, concerning which I will make a more detailed report later on, is important, since the witness in the affidavit tells that he had passed on this knowledge to a large number of other people, telling

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them that if such rumors are spread that it is purely enemy propaganda.

COMMISSIONER NEAVE: Well that is an extremely important point. Why isn't it in the summary? That is the whole point of the affidavit. If that is what it says then it is of some interest. But the mere fact that one individual was terming it enemy propaganda is not relevant at all. I mean, if you can show that the Gestapo or any organization, or even any individual, was telling large numbers of people that this was enemy propaganda, that is a much more relevant defense if you can show that it was a practice to tell everybody. Where does it say that in this affidavit?

DR. PELCKMANN: I quote: "I passed on this information which I had to my acquaintances after receiving it from the official office and I did not doubt the truthfulness of this information.

COMMISSIONER NEAVE: Is there anything else to show that he passed this information on to other people?

DR. PELCKMANN: No but I have information as to why he considered this information to be true. The reason for this is given: "Due to the need of labor, all persons, including all Jews in the ghettoes and all prisoners in the camps, were being used in the armament industry and this is the reason why we could not miss anybody or why we needed the service of everybody."

COMMISSIONER NEAVE: Have you any comments on this, Mr. Monneray?

MR. MONNERAY: No.

COMMISSIONER NEAVE: We have tried to get everything we can out of this affidavit, but Dr. Pelckmann, the point, with all due respect, concerning all such affidavits on the question of knowledge, is this: You must show that it was a general policy of Eichmann or the Gestapo or whoever it may be, to keep such things secret from the organization as a whole or from the public as a whole if

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it involves the organization. A mere statement by an individual that he received a negative answer from the Gestapo or the Reichssicherheitshauptamt, or as was the case with the personal adjutant of Himmler, cannot possibly be relevant to your case. In this case we have been able to extract the fact that he passed on the information to other people and that throws grounds for some hesitation as to its importance. I will admit this affidavit as SS Affidavit No. 12.

DR. PELCKMANN: May I say why I consider the affidavit important also for other reasons?

COMMISSIONER NEAVE: Well surely there are no other reasons. They have not been mentioned in the record, have they? Surely there are no other points you want to bring out in this affidavit. Why aren't they mentioned in the summary then?

DR. PELCKMANN: That concerns itself through the personal question of this person. If this person, a Hauptsturmfuehrer in the SS Main Office could not receive any correct information from the Gestapo, even though the Gestapo could have trusted him, then it is only too clear to say that the small person could not have known anything about these matters.

COMMISSIONER NEAVE: Well perhaps that is true. ~~but~~ Now look here, Dr. Pelckmann. We are, to a certain extent, relying on the summaries and I think it might have been made a little clearer in the summary. ~~but I don't think it is really necessary to say that because~~ However, the assumption is certainly that if the adjutant in the SS Personnel Hauptamt did not know, then possibly some members of his department did not know. But that does not take us much further with respect to the SS as a whole. That is the point.

MR. MONNERAY: May I add something? This affidavit, as well as

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the other affidavit, are more arguments of implication than of direct evidence.

COMMISSIONER NEAVE: What the Prosecution says is perfectly right. These affidavits, from a point of view of direct proof, prove extremely little. What they may say by implication may be a bit wider. However, this has been admitted now so I do not think we need any further discussion. The purpose of the previous conversation has simply been to make clear what the opinion of the Commission is regarding the personal knowledge of officials in the SS.

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BY DR. PELCKMANN:

Affidavit TSCHENTSCHER. 1). Besides paying their dues the supporting members of the SS had no other connection with the SS.

2). The Allgemeine-SS did not have any preparations for war before 1939; did not possess any weapons; anything which was in any relation to a military troop was forbidden, for instance, steel helmits.

3). In April 1941 Tschentscher had the opportunity to visit the Dachau Concentration Camp. The quarters and food of the prisoners were good; the same thing in Mittelwerk, near Nordhausen, where working prisoners received, besides their official food, some food items from the stocks of the Waffen-SS. There was no thought of any extermination or even a lack of interest concerning the condition of the prisoners was seen.

4). The Chief of Tschentscher's, Gruppenfuehrer Loerner, who heard the Posen speech of Himmler, did not tell Tschentscher anything about its contents, even though Tschentscher was in very close relation to Loerner.

5). Due to the strong loss of personnel in the SS Offices each SS member could only serve in his own position and own duty and therefore had only little insight into the activities of the other offices of the SS. In this way the knowledge of crimes in certain official circles could not be found out by the rest of the SS."

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COMMISSIONER NEAVE: Mr. Monneray, have you any comments?

MR. MONNERAY: The summary does not indicate what position the witness had to qualify him to answer these questions.

DR. PELCKMANN: The witness was Standartenfuehrer and last was active in the Economic and Administrative Main Office.

MR. Monneray: As to Point 3, the visit to the concentration camp of Dachau, it seems to me a matter of individual and personal knowledge, without any link with the general knowledge of the organization. Anyway, this point I suppose will be reserved for the general discussion of concentration camp matters. As to point 4, really it could not be admitted here as evidence, as to whether or not somebody told the witness the contents of a speech of Himmler, especially since this speech has been addressed to the SS leaders.

COMMISSIONER NEAVE: Yes, Dr. Pelckmann, we will leave paragraph 3 in the record, pending discussion about concentration camps. Paragraph 4 is irrelevant and should be struck out. What does it matter that Loerner did not tell this man what the contents of Himmler's speech was?

DR. PELCKMANN: Proof of the secrecy of the speech.

MR. MONNERAY: I think we could not possibly talk about the secrecy of a speech which has been given very openly to the whole assembly of SS leaders.

COMMISSIONER NEAVE: Do you mean secrecy attached to the speech before or after it was made? It must be afterwards because this man Loerner evidently heard this speech.

DR. PELCKMANN: I want to state that it was possible to keep secret this speech within the circle of 60 to 90 high leaders of the SS since Himmler told them that they should listen but that they should also forget what they heard.

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COMMISSIONER NEAVE: But Dr. Pelckmann, this is the same old story that we had before. Why is it relevant that Loerner, who heard the speech, did not tell this individual Tschentscher? If you can show that the high officials there really did not tell anybody anywhere about this, well then that is relevant, but the fact that one individual is not told is not relevant. You mean to tell the Commission or the Tribunal rather that because Tschentscher was not told by Loerner that nobody was told? You see that's the position.

DR. PELCKMANN: That is the bad thing about this conference or this Commission and I would ask you not to consider this as an individual case but in connection with the other affidavits and I am going to prove later on that directives were given out concerning the secrecy of this speech. This case is just one case where a person who had heard the speech did not pass it on. I cannot get affidavits from 90 generals and I cannot get affidavits from 100,000 SS men that they did not hear the speech.

COMMISSIONER NEAVE: We must be adjourning now, it is getting late. But I would like to say this. First of all, of course, the Commission will consider affidavits in relation to each other but it is their duty to strike out any evidence in these affidavits which is not relevant according to the Order of March 13. I cannot see why you are arguing so much about this very small point, whether Tschentscher was personally informed, because I cannot see what good it does to your case if you can show, as you say you can show, orders that the speech was to be kept secret. So what is the point of arguing about this individual ~~point~~ if you are going to produce orders to show that this speech was kept secret from people as a whole? I direct that paragraph 4 of this summary be struck out because I do not see the point of having it x on the record at all. But before we adjourn, Dr. Pelckmann, don't misunderstand me that we are going to treat these affidavits solely on the

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basis of the question of whether it is individual evidence or not. I quite realize it is impossible to do that. Obviously some people speak from wide experience. But those incidents that they describe must relate to paragraph 6 of the Order of March 13, which is perfectly clear in that respect, that is paragraph 6 (2) I believe. I understand you will be ready to continue on Wednesday on affidavits. By the way, that last affidavit will be SS Affidavit No. 13.

(The Commission adjourned until 15 July 1946 at 1000 hours.)

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The foregoing is a true and correct transcript of the submission of Affidavits for the SS by Dr. Pelckmann, on 13 July 1946.

Reporter (pp. 1 - 9)

Reporter (pp. 10 - 17)

Reporter (pp. 18 - 31)

CERTIFIED TO:

Commissioner

Lt Col

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OFFICIAL TRANSCRIPT OF EXAMINATION OF AFFIDAVITS ON BEHALF OF ACCUSED ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO ORDER OF THE TRIBUNAL DATED 5 JULY 1946.

13 July 1946

COMMISSIONER:

Lt. Col. A. M. S. Neave

(The Commission convened at 1010 hours)

THE SS

COL. NEAVE: I apologise for being late, but we have just been making up a program for next week. As far as witnesses go, the Political Leaders and the SA will be heard for the first three days next week and a list of those will be published in the course of the day. As far as affidavits go, we will take the General Staff on Monday, and the Political Leaders on Tuesday. Dr. Pelckmann, can you tell me how many affidavits you think you can get through today, and how many more will have to be heard before the end of your affidavits?

DR. PELCKMANN: I have 50 today. I don't know whether we will get them through, and I have 40 more after that.

COL NEAVE: Youhave a total of 90 affidavits?

DR. PELCKMANN: Yes.

COL. NEAVE: All right, shall we go on? #4, isn't it?

DR. PELCKMANN: Next will be the affidavit of Enzner of the Allgemeine-SS who states that the SS was alarmed and alerted on 30 June 1934, but was not put into action against the SA. That is for Frankfurt-Main.

COL. NEAVE: Are there any other affidavits from other parts of Germany which says that the SS was alarmed for this on the 30th of June, 1934?

DR. PELCKMANN: During the next meeting I will produce some more

COL. NEAVE: Well, Dr. Pelckmann, the only fact that appears to be necessary to prove from your point of view, is that the SS all over Germany was alarmed, but did not take any action. Is that what you really want to say?

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DR. PELCKMANN: Yes.

COL. NEAVE: Now, isn't that rather better to be done by one affidavit by somebody who was in charge of the SS at the time? Do we really want a series of affidavits from local areas - if one person knows if those were orders given to the whole of Germany?

DR. PELCKMANN: I'm sorry, but I don't have a leading person from that date, and besides I can bring more concrete evidence by massive evidence.

COL. NEAVE: That's a matter of opinion, but I think in view of what you have said we will accept this affidavit. This is SS Affidavit #4, - that is allowed by the Commission unless the prosecution have any objection.

M. MONNERAY: No objection.

COL. NEAVE: You understand what Dr. Pelckmann says that he can't get one leader, saying that these orders were given to the whole of Germany. He is, therefore, trying to get a number of local men to give evidence that the orders were given.

M. MONNERAY: The prosecution has already stated what its posiition is concerning those affidavits, and does not consider those affidavits as extremely relevant for the criminal character as a whole.

DR. PELCKMANN: I believe that the Court already on the 13th of March has approved such documents to be presented unless they are very individual cases.

COL. NEAVE: Yes, this affidavit is allowed. The point is that you may build up a picture of your organization through local representative's evidence, but you may not allow them to give their personal reminiscences or other personal views on the main organization, excepting so far as their personal views regarding the organization relate to the position and responsibility that they held.

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DR. PELCKMANN: Affidavit of Schallermeier. Next affidavit is the affidavit of Schallermeier. "Schallermeier was in 1933-39, personal referent of the SS Gruppenfuehrer Wolf and the Staff of the Reichsfuehrer S

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In the nights of 9 and 10 November 1938, at 1 o'clock in the morning, Himmler gave Heydrich an order that the Gestapo offices were to prevent plunderings and were to execute the guarding of the Jews and Jewish property. The Gau Propaganda Offices were supposed to be the deriving basic in this Jewish action. This order was given through to the Oberabschnitte of the Allgemeine SS between 0130 and 0230. After this order had been given out, the Oberabschnittefuehrer of the SS directed the Oberabschnitte that they were supposed to assist the Gestapo, if necessary, in guarding the Jews and Jewish property. About 0300 in the morning, Himmler dictated a memorandum to Schallermeier which he then sealed and which later was put into the safe of Himmler." I want to point out especially the attentions which were given in this affidavit which are extremely important especially in connection with the statements made by the witness Von Eberstein. I also wish to quote literally the memorandum which was written by Himmler and which was thereupon sealed and put in the safe of Himmler.

COL. NEAVE: Which is the memorandum of Himmler?

DR. PELCKMANN: From the end of page 2 to the middle of page 3.

COL. NEAVE: I think that in principle instead of quoting sections of the affidavit or having sections translated by the translating division, it is much better, as I have done in the case of other organizations, to translate the complete affidavit in important cases, and to confine ourselves in these proceedings to summaries. In this particular system that's been laid down in the procedure of the hearing of affidavits, the translations of extractions from the affidavits in a number of cases would be very complicated, and I think therefore will will adhere to the original arrangements which is this. That we will read the summary, and it would be up to the discretion of the Commission as to whether or not the whole affidavit should be translated and be presented to the Tribunal. Now, I think I'm prepared to consider the translation of this affidavit and to make a final decision at the end of this hearing when I've heard whether there are any more of this description.

MR. MONNERAY: I'm in favor of the complete translation of the

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document, and if the Commission decides not to translate the whole document, I would just emphasize as far as the summing up is concerned - that is theinstructions Himmler and Heydrich to protect the Jews which were put in a safe; thatmeans according to the terms of the text to prevent any harm and on the other side to protect not the synagogues which will be burned, but to protect the neighboring houses. This phrase seems to be very interesting since it shows what were the meaning of the protection by Himmler and Heydrich.

COL NEAVE: In view of the statement of the prosecution, Commission will agree to the translation of the whole affidavit, and its presentation to the Tribunal as such. That is then SS Affidavit #5.

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DR. PELCKMANN: Affidavit of Enzer.

COL. NEAVE: Is this the same man as #4?

DR. PELCKMANN: Yes, it is the same one. "In Ulm the SS did not participate in any demonstrations against the Jews on the 9th of November 1938. The SS had the order to go home after giving their oath."

COL. NEAVE: Any objections?

MR. MONNERAY: The main problem of this affidavit does not concern, seems to me, the demonstrations of 1938, and no other evidence, and I don't think it would be interesting to have translations of this document.

COL. NEAVE: I think he merely makes the statement of this in the summary which is sufficiently dealt with. We'll allow that as SS Affidavit #6.

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DR. PELCKMANN: Next three affidavits concern themselves with the same thing - that is the demonstrations of 9 November 1938, andthe non-participation of the SS.

COL. NEAVE: What are the next three?

DR. PELCKMANN: First of all the affidavit of Von Roedern who was in the Berlin SS, did not participate in the demonstrations of 8 and 9

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November, 1938, but was used in the protection of the Jewish stores.

COL. NEAVE: Do we really need Von Roedern's affidavit? We have had a very thorough description.

DR. PELCKMANN: We have no affidavit concerning Berlin, for instance, and the teletype message is something which we are accused of which concerns itself with all of Germany.

COL. NEAVE: Yes, well then the other two show exactly the same thing?

DR. PELCKMAN: Yes, one concerning Hamburg, and others concerning Munich.

COL. NEAVE: Mr. Monneray, I have no objection to these others being read as well.

MR. MONNERAY: Only a summing up.

COL. NEAVE: I think thatthe procedure as laid down in the Tribunal's order of 5 July, would definitely permit the defense counsel, as far as possible, to build up a story of these events through local stories, providing they were relevant and providing they were not purely personal views. We will give Von Roedern then, SS #7.

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DR. PELKMANN: Next one is KAUFMANN.

COL. NEAVE: We will give that then SS-affidavit No. 8. Will you read that?

DR. PELCKMANN: "Kaufmann was Reichsstatthalter and Gauleiter in Hamburg. The Hamburg SS did not participate in demonstrations against the Jews on the 9th of November 1938.

COL. NEAVE: It is a bit vague, isn't it?

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COL. NEAVE: All right then. VON BASSEWITZ-BEHR - No 9.

DR, PELCKMANN: "Behr was a guest of Himmler on the 8th of November 1938, at the time of the swearing in of the SS in Munich. Himmler told the SS Obergruppenfuehrers and Gruppenfuehrers at midnight that Goebbels had ordered an Anti-Jewish action. Reports of these demonstrations started pouring in. Himmler gave the order that the demonstrations were to be stopped by the Allgemeine SS."

MR. MONNERAY: Perhaps we could have this affidavit translated since it shows what the credibility of the affidavit is. At this time it was positive that the SS tried to prevent the whole Anti-Jewish Action.

DR. PELCKMANN: I have no objection to it, since I'm interested in the affidavit also due to another reason.

COL. NEAVE: Well, we can only have a very limited number of these affidavits fully translated, and it seems to me that it is not justified in this case. I would, however, allow the representative of the prosecution to select the passage which he would like read into the transcript.

MR. MONNERAY: May I suggest in this case the translation of the last phrase.

COL. NEAVE: Do you mean the passage that begins with "Die SS land somit..." ? Do you mean that passage?

MR. MONNERAY: No.

COL. NEAVE: Do you have the whole affidavit there?

THE INTERPRETER: No, I do not.

COLONEL NEAVE: If you want one -- here, so you can borrow mine. It would

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be paragraph No. 2, section No. 1 -- the last sentence of section 1.

THE INTERPRETER: "Thereupon Himmler gave an order to his Oberabschnittefuehrer, saying that the demonstrations were supposed to be stopped by the Allgemeine SS, since it was feared that the measures started by Goebbels would lead to a Jewish program."

COL. NEAVE: That was number 9.

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DR. PELCHMANN: This next affidavit by FRANZ FISCHER concerns itself with the 13 of June 1934, and 9th of November 1938, and for the area of Nurnberg of the 30th of June 1934, and for the 9th of November 1938, for the area of Oberabschnitt Main and Mitte, which includes Hannover, Magdeburg, Dessan, Goettingen, etc. My summary is as follows.

COL. NEAVE: I'd like to hear your opinion -- I wonder if prosecution has any comments of paragraph No. 3 of the summary.

MR. MONNERAY: I think as to paragraph No. 3 there are no complete facts at all given by the affidavit, but only sort of general impression. There are only two indications of two men who have been on the one side -- higher SS and police leaders, and on the other side -- president of the police. I don't think this paragraph has anything to do with general problem with connection between the SS and police.

COL. NEAVE: Is his point to prove that the Oberabschnittfuehrer of the Allegemeine SS did not hold the same office as SS and high SS police leaders?

DR. PELCKMANN: Yes.

COL. NEAVE: That is a mere statement of certain individuals who held that position. It doesn't necessarily take us very far in to this subject, as the prosecution says.

DR. PELCKMANN: May I make a short statement about this. Prosecution claims close cooperation between the SS and the police. One of the main reasons for that -- the higher SS and police leaders -- affidavit shows this in two cases, that is in Main and Nurnberg the higher SS and police leaders was the same as the Oberabschnittfuehrer. If I prove the same thing for other Oberabschnittfuehrer for other higher SS and police leaders.

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COL. NEAVE: I think I can stop you here. I'm sufficiently aware of the importance of the point in regard to the position of the higher SS and poli leaders. What I'm questioning is whether it's worth while bringing before the Tribunal -- the mere statement that in two places the position of the higher SS and police leaders was not held by the same person as the Oberabschnittfuehrer.

DR. PELCKMANN: I believe that it is important if I can show it for further areas, so I don't think that can be charged yet.

COL. NEAVE: Mr. Monneray, we must consider these affidavits to a certain extent as supporting the evidence of other witnesses, and on those grounds, although I think that this is not particularly relevant. I think we should allow the affidavit.

MR. MONNERAY: May I just for the record say that according to this affidavit the president of the police at Nurnberg was Dr. Martin, and was at the same time higher SS police chief. Correct?

COL. NEAVE: Yes, well that is actually a different point, isn't it? I think that should go into the record though. Will you read the summary, Dr. Pelckmann?

DR. PELCKMANN: "One: The Allegemeine SS in Nurnberg was not put into action on the 30th of June 1934. It did not have any orders. Two: The SS in Oberabschnitt Main and Mitte did not participate on the 9th of November 1938, in any of the demonstrations against Jews. Three: It is not correct that the SS and police formed the single unit, and especially that the higher SS and police leaders were put together -- for instance, the leader of the Oberabschnitts of the Allgemeinen SS in Main was not at the same time higher SS and police leader. Same was the case in Nurnberg. "

MR. MONNERAY: I think the last passage of this summary is not correct, regarding Nurnberg.

COL. NEAVE: Well, the point you made was that the Chief of Police in Nurnberg was not the same. This is referring to the Chief of Oberabschnitte.

So that is SS affidavit No. 10.

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DR. PELCKMANN: Affidavit by FABRIZIUS. "According to this affidavit the German minorities and the "Volksduetsche Mittelstelle" were no fifth column and did not receive any instructions from the SS and had orders not to participate in the Rumanian National Socialistic groups. Bruckner was minority leader in Rumania from 1934 to 1938."

MR. MONNERAY: I wish to emphasize that the affidavit stresses the loyalty of the German minorities, however, at the same time they were in touch with the German Government in Berlin.

COLONEL NEAVE: What is the point in saying that? What does that have to do with the SS?

MR. MONNERAY: I merely wanted to cite the fact that though the affidavit stresses the loyalty of the German minorities, they were still in touch with the German Government in Berlin.

COL. NEAVE: I don't see your point in putting that on the record at all even if it is in the affidavit. The point in this affidavit is to show that the German minorities received no instructions from the SS and does not pertain to the question of the German minorities' loyalty to their own Government. The reference is to the Black guard in Rumania. Is it not mentioned in the affidavit?

DR. PELCKMANN: Yes in number five.

COL NEAVE: That is Affidavit SS No. 11.

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DR. PELCKMANN: Affidavit Weber. By occupation Weber is a priest and a Rumanian citizen of German ancestory. Early in 1941, he was called into the Waffen SS, without having belonged to the Algemeine SS previously. That is Point one of my summary.

COLONEL NEAVE: Is the first point of the summary covering only Wever's being drafted into the SS?

DR. PELCKMANN: No. 1 covers Wever's being drafted into the Waffen SS without his volunteering and without belonging to the Algemine SS. This occured in the year 1941 and as Weber stated this concerns at least 350 other fellow citizens of all agencies and occupations.

COLONEL NEAVE: Yes, I grant you that.

DR. PELCKMANN: In the concentration camp Mauthausen Gusen where Weber was sent as a guard, the prisoners were treated well by the guard company. Entrance to the camp as well as to the work places of the camp was only permitted to the command post personnel and only to those in some individual cases. Even prisoners of Mauthausen Gusen who spoke after the capitulation cannot verify the existance of a gas chamber or cannot give the position of the gas chamber. Weber was often in contact with prisoners, he often exchanged books with them and none of them spoke of killings, tortures, etc.

COLONEL NEAVE: How far does the fact that there was no gas chamber have relevancy?

DR. PELCKMANN: There was no knowledge of any such gas chamber by the guard company and therefore no knowledge of any killings in the camp.

COLONEL NEAVE: The knowledge of such events is the point of this affidavit?

DR. PELCKMANN: Yes, that is the main point. The other statements of Weber are to prove that the prisoners were not treated badly. Since Weber was a priest and gives a rather detailed report of the knowledge and actions of the guard companies, may I ask that it be considered that this affidavit

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be translated in its entirety as the only document of its sort to be so translated. I have several other documents of the same sort and I will not request them to be translated.

COLONEL NEAVE: Do you believe it worthwhile to translate the Document when it only refers to the particular knowledge of one person in the camp? Your summary is perfectly correct, but I suggest that we hand the Document back to you and that you make a fuller summary of it.

DR. PELCKMANN: Yes.

COLONEL NEAVE: We will withhold that affidavit for the moment.

MR. MONNERAY: According to the affidavit the doubt was inside the concentration camp that Weber was not a member of the guard.

COLONEL NEAVE: We have returned the affidavit to Dr. Pelckmann for a fuller summary.

DR. PELCKMANN: Affidavit Koenig. Koenig was drafted into the Waffen SS, according to the labor draft law, on January 4 1940. In the Concentration Camp Sachsenhausen the prisoners were treated well. Koenig made this observation both as a member of the guard company as well as a member of the commando staff. When the prisoners were released they had to sign a statement that there was no mistreatment of prisoners. They were not allowed to tell anything of their knowledge of what occurred in the concentration camp. The food in the concentration camp Sachenhausen was sufficient and very tasty and at times better than that given to the SS members. Mistreatment of prisoners was strictly forbidden and was punished severely. If the short statement in this summary concerning the fact that the food was tasty and was better, at least in the concentration camp Sachenhausen, seems unture, I want to point out that in the full description in the affidavit it is described more closely and this should show that almost until the end of the war, at least in the concentration camp Sachenhausen, the food was quite well and sufficient.

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COLONEL NEAVE: We are not here to judge whether or not the [illegible] was good in the Concentration Camp at Sachenhausen, but to decide if the question is relevant to the organization as a whole. How many of these affidavits will show what the condition of individual camps was?

DR. PELCKMANN: I only have about two more in today's summary and in the next group, which I intend to bring up about Wednesday or Thursday, I will have some more. I believe that it is relevant concerning the question of the organization of the SS in the following connection. If the guard companies of the Concentration Camp Sachenhausen did not believe that the prisoners were hungry and starved to death, then it is important concerning the knowledge of the SS as an organization. I want to point out the following. If that man heard a report that people were starving and dying at Mauthausen Gusen, he would consider it to be enemy propaganda reports since the people were being treated rather well in his concentration camp.

MR. MONNERAY: I don't see how we can discuss this sort of affidavit. It is not a question of relevancy you are discussing here.

COLONEL NEAVE: The only point with which we are concerned is whether a statement of this kind regarding an individual camp is relevant regarding the case of the entire organization and whether the charges that are made against the SS in respect to concentration camps are being refuted in a relevant manner.

MR. MONNERAY: I think this man had a very small perspective of the condition in his camp and according to the text of his affidavit, he could not know all that was going on in the camp.

It is really only sense that he could not give any evidence of the criminal activities of the organization as a whole.

COLONEL NEAVE: The question the Commission is to decide is how far the defense counsel should be allowed to build up a picture regarding the participation of the SS in concentration camps as a whole through individual stories like this. Obviously

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the number of such affidavits cannot be unlimited and we must decide upon some principle by which to judge the relevancy and the admissibility of these affidavits. I think we will make a rule to apply to this.

DR. PELCKMANN: The duties and goals of these affidavits are not to deny that killings and tortures did occur on a large scale in the concentration camps. What we want to prove is that the SS, meaning the guard companies, which were even closer to the actual scene, did not know anything of these matters. The only way that can be proven is throughthe reports of small people like this. If I would bring a camp commander here, he would possibly not be believed and that would be quite right. This man

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is supposed to answer questions about actual occurances and not concerning organizational questions and that is why it is unimportant what rank and what position he had in the organization, he is an exceptionally good witness since he is not accused of any big crimes and therefore can give better description of the actual facts.

COLONEL NEAVE: The point you make is that these affidavits are being submitted to show that all the members of the organization did not know of the crimes which the SS is being charged with, but that does not really help us in this problem at all. The point is how far the defense should be allowed to introduce affidavits by unimportant people to prove such points We all quite agree that the hearings on behalf of the organizations must be as representative as possible. At the same time there will have to be a limit as to the number of affidavits on this particular question and on similar questions. It is at the discretion of the commissioner whether the particular point of the affidavit is relevant or if it has already been covered. In the meantime, I would like to know how many affidavits you have regarding the conditions in concentration camps.

DR. PELCKMANN: Today I have six.

COLONEL NEAVE: They are all covering the same sort of thing, are they not ?

DR. PELCKMANN: Yes, but of different camps.

MR. MONNERAY: There is one point that has not been contested and that is that crimes have been committed. It seems the only relevant point is for the defense to show that the SS employees in the concentration camps could not possibly know of the crimes co mitted at the camps. I do not think that the defense for the SS wants to show that the concentration camps were not camps where atrocities and killings were carried out systematically, so this affidavit has to have as its aims an ignorance of the crimes and not to show that no crimes at all were carried out at the concentration camps. I t seems to be a point, which is out of the aim of the organization.

COLONEL NEAVE: I believe, Dr. Pelckmann, we will have to talk this over again at a later date.

In the meantime we will consider these six affidavits with regard to concentration camps and we will make no final decision on them at the moment although we will read the summary into the record. Whether a small group of guards knew about these events or dot does not go very far to prove knowledge of ignorance of the whole organ zation and as a consequence the admissiblity of the affidavit before the commission will have to be judged in that line. Let us consider these six affidavits together.

DR. PELCKMANN: Before I give you the summaries, may I say something?

COLONEL NEAVE: If it is not very long.

DR. PELCKMANN: I don't want to prove by the affidavits that a relatively small group of guards did not know anything of the occurances in the concentration camps . I want to show that if the guards that were so close to the actual occurances did not know anything of the occurances within the camp, except for a few exceptions, then the SS or the organization as a whole, the men on the front and in the homeland could not know anything further.

MR. MONNERAY: Are you going to present affidavits from guards at Auschwitz and Buchenwald ?

DR. PELCKMANN: Yes.

COLONEL NEAVE: Do you mean to say that they did not know ?

DR. PELCKMANN: Yes. I want to state that you do not consider these things in the light of an individual case, but rather as a whole in connection with the proof I have given concerning the secrecy, the threat of punishment, etc., and all matters which were carried out in order to insure the secretness of the entire matter. I want to prove this in connection also with the oral statement of the judges which we had here,

COLONEL NEAVE: We will consider these affidavits altogether and the Commission will give you their decision regarding the question of concentration camp evidence.

We will recess for ten minutes.

(The Commission recessed at 1200 hours.)

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COMMISSIONER NEAVE: The Commission consider that the question of these concentration camp affidavits is a problem that requires careful reflection and until they have had an opportunity to examine these affidavits closely, it is not proposed to make any further pronouncement with regard to the question of concentration camps. I think therefore, with regard to these six affidavits here, the best policy would be as follows : For me to take them away and examine them and not read the summaries into the record now. We will not read the summaries into the record until they have been further considered. By the time that you come to present your other affidavits with respect to concentration camps we shall, of course, have made a ruling on this question. Have the Prosecution got copies of these documents ?

M. MONNERAY: Yes I have received here six affidavits.

DR. PELCKMANN: Perhpas the names of the affidavits could be read into the transcript at this time ?

COMMISSIONER NEAVE: Yes.

DR. PELCKMANN: Koenig, Firedrich Mueller, Klose , Flierl, Tunger Roman and Meyer Hetling. Do you consider the question of the concentration camp complex to embody only the statements of members of the concentration camp or also statements concerning the secretness of the concentration camp actions ?

COMMISSIONER NEAVE: Well, in regard to the secrecy of concentration camp activities, what sort of people would be giving the affidavits on them ?

DR. PELCKMANN: Certain SS members that made investigations, who received certain information, or could not enter this cordon of secrecy.

COMMISSIONER NEAVE: Affidavits from members of the concentration camp SS guard units only are being be considered at the moment and the following procedure is suggested : These affidavits will be examined by myself and by Mr. Monneray on behalf of the prosecution and we will have an off-the-record meeting next week, on Monday or Tuesday, and having arrived at a decision the Commission will then proceed to hear the affidavit during the course of the next week.

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Dr. Pelckmann will come to this meeting to which I refer. I think this is a matter of some difficulty and I would like, in order to be fair to the defense, to consider it very carefully. With regard to affidavits by members of the SS who held positions in offices where they received orders, etc., I am personally quite clear as to how to judge the relevancy of that type of evidence. On the question of evidence by concentration camps guards, I want at least another member's opinion as it requires the most careful consideration. Well, shall we go on to the next affidavit ?

BY DR. PELCKMANN:

The affidavit of Kuehn is next. Kuehn was the man charged in the Reichs Ministry of Justice with the prosecution of rumor spreaders. In this position he asked officials of the Gestapo if rumors concerning the extermination of Jews in the East were true. The Gestapo answered, and it was eigher 1942 or 1943, that these rumors were unfounded. Because of its wording, which is rather important in this case, I would like to ask for a translation of the entire document which does not take quite a full page.

MR. MONNERAY: I do not see any direct connection with the SS organization.

COMMISSIONER NEAVE: How does the fact that the Gestapo answered his question that it was in 1942or 1943 that these rumors had grown up have anything to do with the SS ?

DR. PELCKMANN: That concerns the system of secrecy which was not limited only to the SS. It also concerns itself with the claim that the German people knew as well or even better concerning all these actions, all these tortures and so on, than the foreign countries. I want to prove that that is incorrect and it was the duty of these organizations, just like the Gestapo, to distribute false facts to the population and that in this way they led the population to believe wrong things and I want to make the statement or claim that in this way they also fooled the members of the SS as far as that was concerned.

COMMISSIONER NEAVE: Wait a minute, Dr. Pelckmann.

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This does not prove anything about the SS except by implication. It does not state anything concerning the SS. It merely implies that if the Gestapo kept these thing secret, according to what you say, the SS would not have known. In this case the witness was neither a member of the SS or apparently connected with it at all, so it is rather far fetched to say that a conversation between him and a Gestapo officials shows that the SS could not have known. I think the connection between this affidavit and what you wish to prove is too remote, and I don't think it shoudl be allowed.

DR. PELCKMANN: This evidence is about the same kind as that of von Thadden.

COMMISSIONER NEAVE: Yes and of course there was a lot in the evidence of von Thadden which was not really relevant but at least von Thadden's evidence was meant to show that the actions that were alleged to have been carried out in the extermination of Jews were not known to a wide field of people, including the SS, with whom he was in contact whereas that is not true in this case.

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DR. PELCKMANN : I am of the opinion that the only way I can fight the statement of the Prosecution that everybody knew about this, the only way of proving or fighting the claim of the Prosecution that the whole of Germany knew about it ...

COMMISSIONER NEAVE : Dr. Pelckmann, let me stop you here. You are not supposed to be proving that the whole of Germany did not know. You are supposed to be proving that the SS did not know. If you can in fact prove that the whole of Germany did not know, presumably then that would include the SS, but that is not apparently the purpose of this affidavit. As a matter of fact that is the whole difficulty with regard to von Thadden which you just mentioned, in that it is evidence by implication rather than by any direct facts which go to show that the members were ignorant of the extermination of Jews. What von Thadden did succeed in showing, in my opinion, was that Eichmann kept his activities secret from the Foreign Office and, in consequence, to a great extent from the SS who were in liaison with von Thadden. Now that is a very different case from this. This is purely the content of a conversation and the implications are much too wide.

DR. PELCKMANN : I want to say before I close that this man was a high official in the Ministry of Justice and if the prosecution claims that there was general knowledge (communes opinio) of these matters in Germany, then I have to disprove that by the same sort of implication through this high official.

COMMISSION NEAVE : We are not going into a long discussion about that. I take the view that this affidavit is too remote from the point which you yourself say you wish to prove and I will withhold it for further consideration.

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BY DR. PELCKMANN :

Affidavit FUEHRER. Fuehrer was the adjutant of Himmler. Even in this position he did not have any insight on the activities of Himmler in connection with his criminal action. Himmler kept all his activities very secret and discussed the most important only with the person that received the order without calling in his adjutant or other persons. On the personal staff of Himmler ther were only lower aides. They practically were only writers and helpers of Himmler. He wanted to take care of everything himself. 2). Himmler called many men who played an important role in the life of the State, Industry and Culture, and made them so-called leaders but these men did not participate in any SS service or did not have any training.

COMMISSIONER NEAVE : Point No. 2 is certainly admissible Have you any comment on Point No. 1, Mr. Monneray?

MR. MONNERAY : I think my objection is quite the same as to the previous affidavit. This affidavit shows that the personal adjutant of Himmler did not know very much about the activity of Himmler but does it show that the SS had no connection with certain orders given by Himmler? I quite agree the Commissioner on Point 2, referring to the appointment as honorary SS members, but I think Point No. 1 is irrelevant.

COMMISSIONER NEAVE : I think, Dr, Polckmann, that Point No. 1 would be admissible in so far as it showed that Himmler treated all members of the SS in that fashion.

DR. PELCKMANN : I say the following : The defense does not deny that crimes were carried out by members of the SS but the great mass of the SS could only have found out about these criminal actions either from the men that carried out these crimes or from the people that ordered them.

COMMISSIONER NEAVE : Let me stop you there. I can quite understand what you are going to say, but that is not the

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point. The point here is that the Reichsfuehrer-SS as the head of that organization appears to have treated his adjutant in such a way that the adjutant did not find out what was going on. That in itself is entirely irrelevant. The part of this summary which is relevant it is that it appears that Himmler undertook all the work himself and did not inform other people. That is what appears to be the case. I think that this should be resummarized, if possible, if you say the affidavit contains the information, to show that Himmler treated the SS organization as a whole in this manner, i.e., that he was secretive towards them. We cannot ask the Tribunal to take notice of the fact that he kept things secret from his adjutant. But if you can show that Himmler was a man of a secretive nature who, in general, kept all these matters secret from his officers, then I think that this affidavit will be admissible. Let us look at the affidavit itself....

M. MONNERAY : I do not see that Himmler had any special secrecy beyond the SS officers.

COMMISSIONER NEAVE : No, there is nothing in this affidavit to show that.

DR. PELCKMANN : I have to say I do not understand what the Commissioner wants to express.

COMMISSIONER NEAVE : I will repeat what I have said. This affidavit says that Himmler kept things secret from his adjutant. That is entirely irrelevant. If it said that he kept things secret from his offices in the SS that would be relevant, but it does not say that.

DR. PELCKMANN : This adjutant was only a small part of the SS Office with whom Himmler communicated.

COMMISSIONER NEAVE : That is what I mean.

DR. PELCKMANN : But generally the adjutant had knowledge of the plans and the actions of his chief and has to know everything in order to function correctly. I want to prove

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by this that Himmler did not adhere to this principle and that his adjutant did not know anything.

COMMISSIONER NEAVE : Dr. Pelckmann, I cannot argue this point any further. The point is entirely irrelevant. If the adjutant had been in a position to say, and it is surprising that he is not, that Himmler treated people who came to see him, or higher offices of the SS, with great secrecy, that would be extremely interesting and very important evidence.

DR. PELCKMANN : Just what you state, Commissioner, is stated in the affidavit. It states in the affidavit that when a visitor came the adjutant was not called upon but that the discussion was under Four Eyes and that therefore he could not have found out anything.

COMMISSIONER NEAVE : But Dr. Pelckmann, the fact that the adjutant was not there do s not prove that Himmler kept things secret from other members of the SS and what is more, all this affidavit says is that he received his visitors alone. That does not prove anything at all. I am not hearing any more on this subject unless the Prosecutionnhas anything to say.

DR. NONNERAY : I quite agree with the Commissioner.

COMMISSIONER NEAVE : I can ot see that there is much point in resummarizing this affidavit. There doesnt seem to be anything contained in it that is relevant but the second point id admitted and will be recorded in the record. If, However, you think that by reading through the affidavit again that the point I have made can be proved, you can have the affidavit back to be re-summarized. What would you like to do?

DR. PELCKMANN : I would like to try again.

COLONEL NEAVE : I cannot find anything in it to prove your point.

(Court Reporter : Show in the record that this affidavit of Fuehrer was not admitted by the Commission but will be re-summarized

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and re-submitted by Dr. Pelckmann.) I am giving you the chance to do that because the Commission has admitted one part of the affidavit already.

By DR. PELCKMANN :

Affidavit ROTHEMUND. Rothemund was in July 1942 adjutant with the chief of the SS Personnel Main Office. He asked the Reichs Security Main Office, Amt IV. and Economic and Administration Main Office, Amts Group D, if rumors concerning the murder of Jews were true. He received the answer that the rumors were purely enemy propaganda. That was in 1943.

COMMISSIONER NEAVE : Well, I think we had better treat that in the same manner as the affidavit of Kuehn and withhold that for further consideration by the commissioners.

DR. PELCKMANN : The difference in this case is that Rothemund was an SS official.

COMMISSIONER NEAVE : But it is the same question, isn't it? I mean, whether it is relevant for an individual to go and ask the Reichssicherheitshauptamt whether these rumors were true or not to receive an answer that it was enemy propaganda. That is the question. We had this question before in the evidence of witnesses before the Commission and its relevancy is still very doubtful except in so far as certain witnesses can show that large areas of the population could not have known.

DR. PELCKMANN : This statement, concerning which I will make a more detailed report later on, is important, since the witness in the affidavit tells that he had passed on his knowledge to a large number of other people, telling them that if such rumors are spread that it is purely enemy propaganda.

COMMISSIONER NEAVE : Well that is an extremely important point. Why isn't it in the summary? That is the whole point of

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the affidavit. If that is what it says then it is of some interest. But the mere fact that one individual was terming it enemy propaganda is not relevant at all. I mean, if you can show that the Gestapo or any organization, or even any individual, was telling large numbers of people that this was enemy propaganda, that is a much more relevant defense if you can show that it was a practic to tell everybody. Where does it say that in this affidavit?

DR. PELCKMANN : I quote : "I passed on this information which I had to my acquaintances after receiving it from the official office and I did not doubt the truthfulness of this information.

COMMISSIONER MEAVE : Is there anything else to show that he passed this information on to other people?

DR. PELCKMANN : No but I have information as to why he considered this information to be . The reason for this is given : "Due to the need of labor, all persons, including all Jews in the ghettoes and all prisoners in the camps, were being used in the armament industry and this is the reason why we could not miss anybody or why we needed the service of everybody".

COMMISSIONER MEAVE : Have you any comments on this, Mr. Monneray?

Mr. MONNERAY : No.

COMMISSIONER MEAVE : We have tried to get everything we can out of this affidavit, but Dr. Pelckmann, the point, with all due respect, concerning all such affidavits on the question of knowledge, is this : You must show that it was a general policy of Eichmann or the Gestapo or whoever it may be, to keep such things secret from the organization as a whole or from the public as a whole if

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it involves the organization. A mere statement by an individual that he received a negative answer from the Gestapo or the Reichssicherheitshauptamt, or as was the case with the personal adjutant of Himmler, cannot possibly by relevant to your case. In this case we have been able to extract the fact that he passed on the information to other people and that throws grounds for some hesitation as to its importance. I will admit this affidavit as SS Affidavit No. 12.

DR. PELCKMANN: May I say why I consider the affidavit important also for other reasons?

COMMISSIONER NEAVE: Well surely there are no other reasons. They have not been mentioned in the record, have they? Surely there are no other points you want to bring out in this affidavit. Why aren't they mentioned in the summary then?

DR. PELCKMANN: That concerns itself through the personal question of this person. If this person, a Hauptsturmfuehrer in the SS Main Office could not receive any correct information from the Gestapo, even though the Gestapo could have trusted him, then it is only too clear to say that the small person could not have known anything about these matters.

COMMISSIONER NEAVE: Well perhaps that is true. Now look here, Dr. Pelckmann. We are, to a certain extent, relying on the summaries and I think it might have been made a little clearer in the summary. However, the assumption is certainly that if the adjutant in the SS Personnel Hauptamt did not know, then possibly some members of his department did not know. But that does not take us much further with respect to the SS as a whole. That is the point.

MR. MONNERAY: May I add something? This affidavit, as well as the other affidavit, are more arguments of implication than of direct evidence.

COMMISSIONER NEAVE: What the Prosecution says is perfectly right. These affidavits, from a point of view of direct proof, prove extremely little. What they may say by inplication may be a bit wider. However, this has been admitted now so I do not

think we need any further discussion. The purpose of the previous conversation has simply been to make clear what the opinion of the Commission is regarding the personal knowledge of officials in the SS.

BY DR. PELCKMANN:

Affidavit Tschentscher. 1.) Besides paying their dues the supporting members of the SD had no other connection with the SS. 2.) The Allgemeine-SD did not have any preparations for war before 1939; did not possess any weapons; anything which was in any relation to a military troop was forbidden, for instance, steel helmits.

3.) In April 1941 Tschentscher had the opportunity to visit the Dachau Concentration Camp. The quarters and food of the prisoners were good; the same thing in Mittelwerk, near Nordhausen where working prisoners received, besides their official food, some food items from the stocks of the Waffen-SS. There was no thought of any extermination or even a lack of interest concerning the condition of the prisoners was seen.

4.) The Chief of Tschentscher, Gruppenfuehrer Loerner, who heard the Posen speech of Himmler, did not tell Tschentscher anything about its contents, even though Tschentscher was in very close relation to Loerner.

5.) Due to the strong loss of personnel in the SD Offices each SS member could only serve in his own position and own duty and therefore had only little insight into the activities of the other offices of the SS. In this way the knowledge of crimes in certain official circles could not be found out by the rest of the SS."

COMMISSIONER NEAVE: Mr. Monneray, have you any comments?

MR. MONNERAY: The summary does not indicate what position the witness had to qualify him to answer these questions.

DR. PELCKMANN: The witness was Standartenfuehrer and last was active in the Economic and Administrative Main Office.

MR. MONNERAY: As to Point 3, the visit to the concentration

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camp of Dachau, it seems to me a matter of individual and personal knowledge, without any link with the general knowledge of the organization. Anyway, this point I suppose will be reserved for the general discussion of concentration camp matters. As to point 4, really it could not be admitted here as evidence, as to whether or not somebody told the witness the contents of a speech of Himmler, especially since this speech has been addressed to the SS leaders.

COMMISSIONER NEAVE: Yes, Dr. Pelckmann, we will leave paragraph 3 in the record, pending discussion about concentration camps. Paragraph 4 is irrelevant and should be struck out. What does it matter that Loerner did not tell this man what the contents of Himmler's speech was?

DR. PELCKMANN: Proof of the secrecy of the speech.

MR. MONNERAY: I think we could not possibly talk about the secrecy of a speech which has been given very openly to the whole assembly of SS leaders.

COMMISSIONER NEAVE: Do you mean secrecy attached to the speech before or after it was made? It must be afterwards because this man Loerner evidently heard this speech.

DR. PELCKMANN: I want to state that it was possible to keep secret this speech within the circle of 60 to 90 high leaders of the SD since Himmler told them that they should listen but that they should also forget what they heard.

COMMISSIONER NEAVE: But Dr. Pelckmann, this is the same old story that we had before. Why is it relevant that Loerner, who heard the speech, did not tell this individual Tschentscher? If you can show that the high officials there really did not tell anybody anywhere about this, well then that is relevant, but the fact that one individual is not told is not relevant. You mean to tell the Commission or the Tribunal rather that because Tschentscher was not told by Loerner that nobody was told? You see that's the position.

DR. PELCKMANN: That is the bad thing about this conference

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or this Commission and I would ask you not to consider this as an individual case but in connection with the other affidavits and I am going to prove later on that directives were given out concerning the secrecy of this speech. This case is just one case where a person who had heard the speech did not pass it on. I cannot get affidavits from 90 generals and I cannot get affidavits from 100,000 SS men that they did not hear the speech.

COMMISSIONER NEAVE: We must be adjourning now, it is getting late. But I would like to say this. First of all, of course, the Commission will consider affidavits in relation to each other but it is their duty to strike out any evidence in these affidavits which is not relevant according to the Order of March 13. I cannot see why you are arguing so much about this very small point, whether Tschentscher was personally informed, because I cannot see what good it does to your case if you can show, as you say you can show, that there were orders that the speech was to be kept secret. So what is the point of arguing about this individual if you are going to produce orders to show that this speech was kept secret from people as a whole? I direct that paragraph 4 of this summary be struck out because I do not see the point of having it on the record at all. But before we adjourn, Dr Pelckmann, don't misunderstand me that we are going to treat these affidavits solely on the basis of the question of whether it is individual evidence or not. I quite realize it is impossible to do that. Obviously some people speak from wide experience. But those incidents that they describe must relate to paragraph 6 of the Order of March 13, which is perfectly clear in that respect, that is paragraph 6 (2) I believe. I understand you will be ready to continue on Wednesday on affidavits. By the way, that last affidavit will be SS Affidavit No. 13.

(The Commission adjourned until 15 July 1946 at 1000 hours.)

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The foregoing is a true and correct transcript of the submission of Affidavits for the SS by Dr. Pelckmann, on 13 July 1946.

Bernice Winkler
Reporter

Alice Meehan
Reporter

Mabel A. Lesser
Reporter

CERTIFIED TO:

A. M. S. MEAVE, Lt. Col.
Commissioner